

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANNETTE STOCKWELL and LAWRENCE
STOCKWELL, husband and wife and the
marital community composed thereof,

Plaintiffs,

vs.

SAFEWAY, INC., a non-governmental
corporation d/b/a SAFEWAY STORE #792,
ALBERTSONS COMPANIES, LLC, a foreign
limited liability company, ALBERTSONS
COMPANYS, INC., a non-governmental
corporation, CERBERUS CAPITAL
MANAGEMENT, LP, a non-governmental
limited partnership, and DOES 1-5,

Defendants.

No.

DEFENDANTS' NOTICE OF REMOVAL
OF ACTION PURSUANT TO 28 U.S.C. §§
1332, 1441 AND 1446

(REMOVED FROM KING COUNTY
SUPERIOR COURT CAUSE NO. 20-2-
09638-5 KNT)

TO: CLERK, U.S. DISTRICT COURT, WESTERN DISTRICT OF
WASHINGTON, AT SEATTLE;

AND TO: PLAINTIFFS AND PLAINTIFFS' COUNSEL OF RECORD.

Defendants' hereby remove to this Court the state court action described below on the
grounds stated herein, and as supported by the Declaration of Kimberly A. Reppart and the exhibits

1 attached thereto.

2 **I. INTRODUCTION & STATEMENT OF FACTS**

3 On June 4, 2020, Plaintiffs commenced a lawsuit in King County Superior Court entitled
4 Annette Stockwell and Lawrence Stockwell v. Safeway, Inc. et al. Plaintiffs served Alberstons
5 Companies, Inc. with the Summons and Complaint on June 10, 2020. Declaration of Kimberly A.
6 Reppart, Ex. 1.

7 This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it is being filed
8 "...within thirty days after receipt by the defendant, through service or otherwise, of a copy of the
9 initial pleading setting forth the claim for relief upon which such action or proceeding is based..."
10 28 U.S.C. § 1446(b)(1). Plaintiff's counsel served defendant Safeway Inc.'s third party claims
11 administrator with a demand claiming more than \$75,000 in damages in March, 2020. Reppart
12 Decl., Ex. 4.

13 Safeway Inc. is the only properly named Defendant (reserving all defenses as to service of
14 process and personal jurisdiction). Safeway Inc. is a Delaware corporation with headquarters
15 located in Pleasanton, California. Reppart Decl., Ex. 5. Safeway Inc. is a wholly-owned subsidiary
16 of Albertson's Holdings LLC. Defendant Albertsons Companies, LLC is a Delaware limited
17 liability company with headquarters in Boise, Idaho. Reppart Decl. at Ex. 6. Defendant Albertsons
18 Companies, Inc. is a Delaware corporation not registered in Washington State. Reppart Decl. at ¶
19 2, Ex. 2. Cerberus Capital Management has not been served.

20 It is Defendants' position that Safeway Inc. is the only properly named Defendant
21 (reserving all defenses as to service of process and personal jurisdiction).

22 //

23 //

1 **II. BASES FOR REMOVAL**

2 **A. There is Complete Diversity of Citizenship under 28 USC § 1332.**

3 This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. §
4 1332(a)(1), and is one which can be removed to this Court by defendant pursuant to 28 U.S.C. §
5 1441(b) in that it is a civil action between citizens of different states and the amount in controversy
6 exceeds the sum of \$75,000, exclusive of interest and costs.

7 The plaintiffs are residents of Washington State. Ex. 7. Defendant Safeway Inc. is a
8 Delaware corporation with headquarters located in Pleasanton, California. Ex. 5. Defendant
9 Albertsons Companies, LLC is a Delaware limited liability company with headquarters in Boise,
10 Idaho. Ex. 6. Defendant Albertsons Companies, Inc. is a Delaware corporation not registered in
11 Washington State. Ex. 2. Removal of the plaintiffs' action to this Court is proper because there
12 is complete diversity of citizenship of the parties pursuant to 28 U.S.C. § 1332, and there was
13 complete diversity at the time plaintiffs' lawsuit was served.

14 **B. The Amount in Controversy Exceeds the Jurisdictional Minimum.**

15 Plaintiff's counsel served defendant Safeway Inc.'s third party claims administrator with a
16 demand claiming more than \$75,000 in damages in March, 2020. Reppart Decl., Ex. 4.

17 **C. This Notice of Removal is Timely Under 28 USC § 1446(b).**

18 This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it is being filed
19 "...within thirty days after receipt by the defendant, through service or otherwise, of a copy of the
20 initial pleading setting forth the claim for relief upon which such action or proceeding is based..."
21 28 U.S.C. § 1446(b)(1).

22 //

23 //

D. **This Notice of Removal Complies with the Applicable Local Rules, and Venue Is Proper in the Western District of Washington under 28 U.S.C. § 128(b).**

This Notice of Removal complies with all applicable Federal Rules of Civil Procedure and Local Rules. Defendant has attached to the Declaration of Kimberly Reppart, filed in support of this Notice, copies of all process, pleadings, and orders served upon it in the state court action, as required by 28 U.S.C. § 1446. Venue is proper in this District pursuant to 28 U.S.C. §§ 128(b) and 1391, because this District encompasses King County, the county listed in the state court complaint served on Defendants.

Defendants are serving plaintiffs with copies of this Notice of Removal and the supporting Declaration of Kimberly Reppart (with exhibits).

III. CONCLUSION

Plaintiffs' civil action, originally venued in King County Superior Court for the State of Washington, may be removed pursuant to 28 U.S.C. 1441 and 1446 to the United States District Court for the Western District of Washington at Seattle.

Dated this 30th day of June, 2020.

FORSBERG & UMLAUF, P.S.

By: 

Kimberly A. Reppart, WSBA #30643
901 Fifth Avenue, Suite 1400
Seattle, Washington 98164-2050
Telephone: (206) 689-8500
Email: kreppart@foum.law
Attorneys for Defendant Safeway, Inc.

1 FORSBERG & UMLAUF, P.S.

2
3 By: 

Alex E. Ormsby, WSBA #52677

901 Fifth Avenue, Suite 1400

Seattle, Washington 98164-2050

Telephone: (206) 689-8500

Email: aormsby@foum.law

Attorneys for Defendant Safeway, Inc.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

DEFENDANTS' NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 –
PAGE 5
CAUSE NO.

2691851 / 824.0079

FORSBERG & UMLAUF, P.S.
ATTORNEYS AT LAW
901 FIFTH AVENUE • SUITE 1400
SEATTLE, WASHINGTON 98164
(206) 689-8500 • (206) 689-8501 FAX

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing **DEFENDANTS' NOTICE OF REMOVAL OF ACTION** on the following individuals in the manner indicated:

Mr. John J. Polito
Law Offices of John J. Polito, PLLC
9 Lake Bellevue Dr., Suite 200
Bellevue, WA 98005
(X) Via ECF
(X) Via Email

SIGNED this 15th day of July, 2020, at Seattle, Washington.


Shawn G. Menning